

Tougher Punishment for Repeat Offenders: Habitual Revoked Driving

General Description

One of the most frustrating aspects of charging individuals with Driving While License Revoked (DWLR) is that they usually continue to drive, despite the revocation of their privilege to do so. Even with multiple DWLR convictions, the most severe punishment available is a “Permanent Revocation” (which, in reality, is not truly “permanent”), conviction of a Class 1 Misdemeanor, and possibly 120 days in jail and a fine. In practice, judges rarely impose active jail time for DWLR offenses. As long as existing punishments are not used, and the awareness of this state of affairs is widespread, there is little likelihood that drivers will cease driving after their licenses has been suspended or revoked. To encourage judges to impose meaningful sanctions, it seems that an alternative “severe” sanction that judges perceive to be both practical and appropriate is needed.

Anecdotal evidence: In a recent case in Raleigh and individual with four previous “Permanent Revocations” was convicted for a subsequent DWLR. Following this conviction, the individual was given two years probation and one day in jail, with credit for time served.

HABITUAL REVOKED DRIVING: DEFINITION

A person commits the offense of Habitual Revoked Driving if he operates a motor vehicle while his license is revoked as currently defined in NC G.S. 20-28 and has been convicted of four or more offenses of Driving While License Revoked within seven years of the date of this offense.

HABITUAL REVOKED DRIVING: PUNISHMENT

A person convicted of Habitual Revoked Driving shall be punished as a Class H felon and shall be sentenced to a minimum active term of not less than ninety days home incarceration (previously in jail), which shall not be suspended or reduced. A person convicted of Habitual Revoked Driving shall have his license permanently revoked.

HABITUAL REVOKED DRIVING: VEHICLE SEIZURE

If a person is convicted of Habitual Revoked Driving, the motor vehicle that was driven by the defendant at the time the defendant committed the offense of Habitual Revoked Driving ~~becomes property subject to forfeiture~~ shall be forfeited in accordance with the procedure set forth in NC G.S. 20-28.2. Innocent owners, as defined by NC G.S. 20-28.2 shall not have their vehicle seized.

Technical Attributes

Target	Repeat DWLR offenders are the targets of this strategy. First, second or third time offenders will not be affected. This strategy targets the worst of the worst of DWLR offenders; those who repeatedly drive without a license.
Expected Effectiveness	As the idea is modeled after the Habitual DWI strategy, a similar effectiveness could be expected. Hard-core repeat offenders would be removed from the roads for at least 90 days, and their vehicles would be forfeited. The potential effect of this strategy on crashes by unlicensed drivers is difficult to estimate.

Keys to Success	Education of the public, of law enforcement, and of judicial personnel is essential. If the repeat offender population can be persuaded that they will be meaningfully punished for driving with a revoked license, they will be less likely to do so.
Potential Difficulties	The requirement for legislation may be the largest difficulty. In addition, it will be necessary for judges to routinely impose the recommended sanctions. Persuading them to do so may present a challenge.
Appropriate Measures and Data	The number of Habitual DWLR charges should be tracked to determine if this strategy is effective. Collisions involving DWLR offenders pre- and post-strategy should also be tracked.
Associated Needs	It will be necessary to effectively alert law enforcement and judicial personnel of the new law and to persuade them to adhere to its central elements.
Organizational, Institutional, and Policy Issues	Support from the Legislature is essential. As this targets only the very worst offenders, objections based on potential inconvenience to drivers should be minimal.
Issues Affecting Implementation Time	Implementation time will depend primarily upon the speed with which enabling legislation is passed.
Costs	<p>The public, legislators, law enforcement and the judiciary will need to be educated. Associated costs will include preparation of clear, concise materials that can be used for these purposes.</p> <p>Implementation costs will also include developing and preparing forms, programming state records and training personnel, including law enforcement and judicial personnel.</p>
Training	Enforcement personnel will be on the “front line” for this strategy. They will need to be fully informed of how the law is to be implemented and judges will also need to be trained in the details of the new law as well as its underlying rationale.
Legislative Needs	Authorizing legislation will be needed.